

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 91-479-C - ORDER NO. 92-36 ✓
JANUARY 23, 1992

IN RE: Application of Tri*Tel Communications for) ORDER
a Certificate of Public Convenience and) DENYING
Necessity.) PETITION FOR
) REHEARING
) AND/OR
) RECONSIDERATION

This matter is before the Public Service Commission of South Carolina (the Commission) on Southern Bell Telephone and Telegraph's (Southern Bell's) Petition for Rehearing and/or Reconsideration of Order No. 91-1111. Order No. 91-1111 granted Tri*Tel Communications' (Tri*Tel's or the Company's) Application for a Certificate of Public Convenience and Necessity to operate as a reseller of telecommunications services in South Carolina. After thorough consideration of the Petition, the Commission denies Southern Bell's Petition for Rehearing and/or Reconsideration of Order No. 91-1111 for the reasons stated below.

1. Southern Bell contends the Commission erred by denying its motion for a directed verdict. Specifically, Southern Bell argues the Commission should have denied Tri*Tel's Application because the Company failed to comply with the statutory provisions of S.C. Code Ann. §§ 58-9-520 (Supp. 1991), 58-9-570 (Supp. 1991), and 58-9-350 (Supp. 1991). In Order No. 91-1111 the Commission

explained that these three statutes were inapplicable to Tri*Tel's Application for a Certificate of Public Convenience and Necessity. The Commission reaffirms its explanation in Order No. 91-1111.

2. Southern Bell contends the Commission granted Tri*Tel's Application without having information which is specified under S.C. Code Ann. §§ 58-9-250 (Supp. 1991), 58-9-570 (Supp. 1991), and 58-9-350 (Supp. 1991) and by 26 S.C. Regs. 103-834 (Supp. 1991). As noted above, the Commission has determined that the requirements of the cited statutory sections are inapplicable where a telecommunications reseller is applying for a Certificate of Public Convenience and Necessity.

Likewise, the Commission concludes that 26 S.C. Regs. 103-834 is also inapplicable where a reseller is applying for a Certificate of Public Convenience and Necessity. Although the regulation states it shall apply for "establishment or adjustment of rates and charges," the Commission holds that the filing requirements of the regulation do not apply in cases where, as here, a reseller submits a tariff which competitively mirrors the maximum rates of AT&T¹ because many of the various factors contained in Reg. 103-834 are inapplicable.² Accordingly, the Commission denies the Petition for Rehearing and/or Reconsideration on this issue.

3. Southern Bell claims that Order No. 91-1111 contains

1. See Order No. 84-622, Docket No. 84-10-C (August 2, 1984).

2. In any event, Tri*Tel did submit financial exhibits with its Application.

insufficient findings of fact to support its conclusions of law. Specifically, Southern Bell states that "[t]he Order contains three single-sentence findings of fact which lead the Commission to ten conclusions of law." Petition page 5.

The Commission finds that Order No. 91-1111 contains sufficient findings to support its conclusions. While the Order may have only delineated three statements as "Findings of Fact," the Order contains ample discussion of the evidence of record which clearly supports the Commission's conclusion to grant Tri*Tel's Application. Order No. 91-1111, pages 5-6. The Commission is unaware of any requirement which dictates that a specific number of findings of fact must be included in an Order. Accordingly, the Commission holds that its findings of fact and conclusions of law fully comply with S.C. Code Ann. §1-23-350 (1976).

IT IS THEREFORE ORDERED:

1. The Petition for Rehearing and/or Reconsideration is denied.
2. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director
(SEAL)